IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 3215 OF 1985

India Tourism Development Corporation Ltd., a Public Sector Undertaking, having their Regional Office at 11th Floor, Nirmal, Nariman Point, Bombay-400 021. .. Plaintiffs.

V/s.

1. M/s.Crest Hotels Ltd., a Company Registered under the Companies Act, 1956 having their Registered office at Shivsagar Estate, Worli, Bombay - 400 018.

2. Your Travels Private Ltd., A company registered under companies Act, 1956, its registered office at "Eden Hall" Ground Flr. Dr.Annie Besant Rd., Worli, Bombay- 400 018 .. Defendants.

Mr.R.C.Dubey i/by M/s. Sanjiv Kanchan & Co. for the Plaintiffs.

None for the Defendants.

CORAM : S. A. BOBDE, J.

DATED : 19th JANUARY, 2007.

ORAL JUDGMENT :

. This is a suit for recovery of a sum of Rs.13,57,370.06/- together with interest at the rate of 20% per annum from the date of the filing of the suit

till the payment and/or realisation.

2. The plaintiffs have claimed the amount in pursuance of contract dated 10.03.1984, whereunder the plaintiffs agreed to loan a fleet of 15(fifteen) latest model air conditioned Mercedes Moter Cars with the services of a chauffeur to the defendant No.1 at the Hotel Central Park, owned by the defendant No.1. The plaintiffs witness has stated on oath in the affidavit that according to the contract, the Mercedes Cars alongwith the drivers were made available to the defendants. Later on by a letter dated 01.08.1984, the discount granted by the plaintiffs was increased from 15% to 25%. According to clause (5) of that letter, the defendants agreed to pay a minimum sum of Rs.536.25 per car per day for minimum of 8 hours and 80 kilometres per day. The contract is produced alongwith the suit at Exh.‘A’ and the amended contract dated 01.08.1984 is at Exh.‘C’. According to the plaintiffs, the defendants started claiming false deductions and failed to honour bills raised upon them and the defendants did not regularise the outstanding amounts to the plaintiffs and continued to commit the defaults by upholding the payments.

3. Eventually after some correspondence, a meeting

was held on 14.05.1985. In that meeting, it was agreed between the Assistant Manager of the plaintiffs alongwith one Mr.B.Menghani with the defendants that till 31st March, 1985 a sum of Rs.8,42,261.91/- was due and payable by the defendants to the plaintiffs. That letter dated 15.05.1985, recording the minutes of the meeting dated 14.05.1985 is annexed at Exh.'G' in the compilation of the documents.

4. Apparently, the plaintiffs thereafter made it clear to the defendants in a meeting held on 22.05.1985 that the plaintiffs would be constrained to take further steps including the steps for termination of the contract if the defendants continued to avoid payment of the plaintiffs dues. Inspite of this, the plaintiffs received a claim for false deductions from the defendants. Therefore, the plaintiffs wrote to the defendants on 24.05.1985, stating that they would terminate the contract.

5. Thereafter, by letter dated 01.06.1985 at Exh.'J' received by the defendants on 03.06.1985, the plaintiffs asked for or demanded payment of their outstanding dues, amounting to sum of Rs. 13,75,891.70/-. Instead of complying with the said notice, the defendants have made a false claim to the

tune of Rs. 11,21,105.50/- against the plaintiffs. Thereafter, the plaintiffs issued a notice dated 14.10.1985, annexed at Exh.'K', demanding payment from the defendants of sum of Rs.12,48,475.28/-.

6. The defendants did not comply with the notice. On the other hand, the plaintiffs learnt that the defendants are about to close and sell the Central Park Hotel and therefore, the plaintiffs have filed the suit. Thus the plaintiffs have made out a claim of Rs. 13,57,370.06 with interest at the rate of 20% per annum from the date of the filing of the suit till the date of payment.

7. I have perused the evidence which has gone uncontroverted. In fact, as noticed earlier, even the defendants have failed to file written statement. In this view of the matter, I consider that the plaintiffs claim deserves to be allowed.

8. In the circumstances, the suit is decreed with interest at the rate of 12% since filing of the suit till realisation.

9. Decree be drawn up accordingly.

(S.A.BOBDE,J.)

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